

1 THE HONORABLE JOHN C. COUGHENOUR
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9 UNITED STATES DISTRICT COURT
10 WESTERN DISTRICT OF WASHINGTON
11 AT SEATTLE

12 UNITED STATES OF AMERICA,

13 CASE NO. CR22-0048-JCC

14 Plaintiff,

15 v.

16 QIXIAN WU, *et al.*,
17
18 Defendants.

**DISCOVERY
PROTECTIVE
ORDER**

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20 This matter, having come to the Court's attention on the parties' joint motion for
21 entry of a discovery protective order (Dkt. No. 35), and the Court, having considered the
22 motion, and being fully advised in this matter, hereby enters the following
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PROTECTIVE ORDER:

24 1. **Protected Material.** For purposes of this Order, "Protected Materials"
25 shall include (1) Grand Jury testimony; (2) witness statements; (3) tax information; (4)
26 financial information; (5) subscriber information (including phone and utility subscriber

1 information for third parties); and (6) other personal identifying information (“PII”)¹
 2 obtained during the investigation, either via Grand Jury subpoena and/or during the
 3 execution of search warrants, including but not limited to personal information about
 4 defendants and third parties (such as photographs, including sexually suggestive
 5 photographs of family members, defendants, and/or witnesses) and other sensitive
 6 information obtained from the search of social media, cellular telephones, and other
 7 digital devices seized during the investigation (collectively, the “Protected Material”). All
 8 financial records (including phone, utility, and financial information for third parties),
 9 federal tax records, cellular telephone downloads, Grand Jury transcripts, and summaries
 10 of financial records provided during discovery will be considered Protected Material
 11 without further designation by the Government.

12 2. Other information believed by the Government to be Protected Material
 13 will be so designated by the Government. Said material may include, but is not limited
 14 to, information related to witnesses and third parties, criminal history reports, and related
 15 *Giglio* impeachment materials.

16 3. **Production of Protected Material to the Defense.** The United States will
 17 make available copies of the Protected Materials, including those filed under seal, to a
 18 Coordinating Discovery Attorney should one be appointed and/or directly to defense
 19 counsel to comply with the government’s discovery obligations. Possession of copies of
 20 the Protected Materials is limited to the Coordinating Discovery Attorney (should one be
 21 appointed) and his/her staff, attorneys of record, and investigators, paralegals, law clerks,
 22 experts and assistants for the attorneys of record (hereinafter collectively referred to as
 23 “members of the defense teams”). Further, the attorneys of record are required, prior to
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 26 1 “PII” includes, but is not necessarily limited to, the information identified in Fed. R. Crim. P. 49.1(a) and includes
 27 full names, dates of birth, Social Security numbers (or other identification information), financial account
 28 information (including account numbers), tax information, driver’s license numbers, addresses, telephone numbers,
 locations of residences or employment, medical records, school records, juvenile criminal records, and other
 confidential information. The government has endeavored to redact PII as appropriate, but the parties acknowledge
 and agree that this will not always be possible, and that in some instances un-redacted PII may be necessary to the
 defense.

1 disseminating any copies of the Protected or Sensitive Materials to members of the
 2 defense teams, to provide a copy of this Protective Order to members of the defense
 3 teams, and obtain written consent by members of the defense teams of their
 4 acknowledgment to be bound by the terms and conditions of this Protective Order. The
 5 written consent need not be disclosed or produced to the United States unless requested
 6 by the Assistant United States Attorney and ordered by the Court.

7 **4. Review of Protected Material by Defendants.** The attorneys of record
 8 and members of each Defendant's defense team may share and review the Protected
 9 Material with their respective Defendant. Defendants who are residing at the Federal
 10 Detention Center (FDC) will be permitted to review the Protected Material, consistent
 11 with the regulations established by the BOP, with or without their respective counsel in a
 12 controlled environment at the Federal Detention Center (FDC), but will be prohibited
 13 from printing out, copying, or disseminating the discovery. Defendants who are on
 14 pretrial release will be permitted to review the Protected Material at the offices of their
 15 counsel, but will be prohibited from printing out, copying, or disseminating the
 16 discovery.

17 **5. Limits on Dissemination of Protected Materials.** The attorneys of record
 18 and members of the defense team acknowledge that providing copies of the Protected
 19 Material to the Defendants and other persons is prohibited, and agree not to duplicate or
 20 provide copies of the Protected Material to the Defendants and other persons. This order
 21 does not limit employees of the United States Attorney's Office for the Western District
 22 of Washington from disclosing the Protected Material to members of the United States
 23 Attorney's Office, federal law enforcement agencies, witnesses, and the Court and
 24 defense as necessary to comply with the government's discovery obligations.

25 **6. Future Production of Additional Protected Materials.** Additional types
 26 of discovery items may be deemed by the parties to constitute Protected Material upon
 27 agreement, or (if no agreement can be reached) by further order of the Court.
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1 7. **No Waiver.** Nothing in this order should be construed as imposing any
 2 substantive discovery obligations on the government that are different from those
 3 imposed by case law and Rule 16 of the Federal Rules of Criminal Procedure. The
 4 failure to designate any materials as provided in paragraph 2 shall not constitute a waiver
 5 of a party's assertion that the materials are covered by this Protective Order.

6 8. **Use of Protected Material in Court.** Any Protected or Sensitive Material
 7 that is filed with the Court in connection with pre-trial motions, trial, or other matter
 8 before this Court, shall be filed under seal and shall remain sealed until otherwise ordered
 9 by this Court. This does not entitle either party to seal their filings as a matter of course.
 10 The parties are required to comply in all respects with the relevant local and federal rules
 11 of criminal procedure pertaining to the sealing of court documents.

12 9. **Non-Termination.** The provisions of this Order shall not terminate at the
 13 conclusion of this prosecution. Furthermore, at the close of this case, defense counsel
 14 shall return the Protected Material, including all copies of the Protected Material, to the
 15 office of the United States Attorney, or otherwise certify that the material has been
 16 destroyed.

17 10. **Violation of Order.** Any person who willfully violates this order may be
 18 held in contempt of court and may be subject to monetary or other sanctions as deemed
 19 appropriate by this Court.

20 11. **Modification of Order.** Nothing in this Stipulation shall prevent any party
 21 from seeking modification of this Protective Order or from objecting to discovery that it
 22 believes to be otherwise improper. The parties agree that in the event that compliance
 23 with this Order makes it difficult for defense counsel to adhere to their Sixth Amendment
 24 obligations, or otherwise imposes an unworkable burden on counsel, defense counsel
 25 shall bring any concerns about the terms of the Order to the attention of the government.
 26 The parties shall then meet and confer with the intention of finding a mutually acceptable
 27 solution. In the event that the parties cannot reach such a solution, defense counsel shall
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1 have the right to bring any concerns about the scope or terms of the Order to the attention
2 of the Court by way of a motion.

3 **12. Agreement to Provide Copies of Protected Material to Defendants.**

4 Upon agreement of counsel for the Government, members of a defense team may provide
5 copies of specific Protected Material, or redacted versions of such material, to a
6 Defendant. When seeking the Government's agreement to give such a copy to a
7 Defendant, members of the defense team will identify with reasonable particularity,
8 including (where available) the specific bates numbered pages and or recording
9 descriptions, the specific material defense counsel proposes to give to the Defendant.
10 Unless expressly stated otherwise by the Government, copies of Protected Material to be
11 provided to the Defendant will continue to be Protected Material subject to all of the
12 protections of the Court's Order, with the sole exception that a copy can be given only to
13 the Defendant (and not shared with anyone else outside the defense team). If counsel for
14 the Government and counsel for the Defendant cannot reach agreement on whether
15 particular portions of the Protected Material or redacted versions of Protected
16 Material should be given to the Defendant under these conditions, defense counsel may
17 raise the issue with the Court by way of a motion.

18 **13. No Ruling on Discoverability or Admissibility.** This Protective Order
19 does not constitute a ruling on the question of whether any particular material is properly
20 discoverable or admissible and does not constitute any ruling on any potential objection
21 to the discoverability of any material.

22 **14. No Ruling on Timing of Production.** This Protective Order does not
23 require the Government to provide particular discovery at a time or in a fashion
24 inconsistent with applicable law.

25 **15. Addition of Defendants after Entry of Order.** This Protective Order will
26 cover additional Defendants in this case so long as they agree to be bound by the terms of
27 this Protective Order and so indicate that consent by the execution of a supplemental
28 stipulation, which shall be filed as an addendum or supplement to this Protective Order.

1 IT IS SO ORDERED. The Clerk of the Court is directed to provide a filed copy of
2 this Protective Order to the Coordinating Discovery Attorney and all counsel of record.
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4 DATED this 3rd day of June 2022.
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9 John C. Coughenour
10 UNITED STATES DISTRICT COURT JUDGE
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12 Presented by:
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14 /s/ Joseph Silvio
15 JOSEPH SILVIO
16 Assistant United States Attorney
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